CHAPTER 2: MULTI-FAMILY HOUSING PROGRAMS AND LOAN SERVICING

2.1 INTRODUCTION

This chapter introduces key aspects of the Section 515 Multi-family Housing and Section 514/516 Farm Labor Housing programs. Under these programs, the Agency provides direct loans and grants to support the development of affordable rental housing that serves rural areas. The Section 538 Multi-family Housing Guarantee program—the Agency's third multi-family housing program that guarantees loans made by private lenders—is covered in a separate set of handbooks.

The chapter also describes the key project servicing procedures that the Agency uses to administer the terms of the Agency loan or grant agreement for the program. These procedures provide Loan Servicers with a consistent basis for conducting servicing actions and assisting borrowers in meeting their responsibilities.

Section 1 introduces the types of loans and other forms of assistance available through the Section 515 program and the Agency's objectives in providing this assistance. Section 2 describes the loans, grants, and other assistance available to increase the supply of affordable housing specifically targeted toward farm labor. The chapter concludes with Section 3, which introduces the major project servicing activities as well as the key parties involved.

SECTION 1: SECTION 515 PROGRAM

2.2 OVERVIEW

The Section 515 program offers direct loans to eligible borrowers to provide economically designed and constructed housing and related facilities for very low-, low-, and moderate-income households, elderly households, and persons with disabilities living in rural areas. This section of the chapter describes:

- The types of projects allowed;
- The types of loans available; and
- Rental assistance available from the Agency.

2.3 TYPES OF PROJECTS

There are four basic types of rental projects that can be developed using Section 515 loans:

- Family projects;
- Elderly projects;

- Congregate projects; and
- Group homes.

In addition, Section 515 loans can be used to finance cooperative housing projects. The Agency also allows mixed projects that contain both family and elderly units.

The housing must be economical and must not include elaborate features, but it must be adequate to meet tenants' needs. The project should be of average quality and cost. With the exception of Off-Farm Labor Housing, all projects must be developed in locations that qualify as rural areas.

A. Family Projects

A family housing project is a rental property developed for occupancy by eligible very low-, low-, or moderate-income households. Household income is the only tenant characteristic that is given preference in selecting from eligible applicants for occupancy. Nonelderly and elderly households may occupy the housing.

B. Elderly Projects

An elderly project is a rental property that is developed for occupancy solely by eligible elderly households. Very low-, low-, or moderate-income households that do not qualify as elderly households are not eligible to live in these projects unless they consist of surviving nonelderly members of a household in which the elderly tenant is deceased.

C. Congregate Projects

Congregate projects are rental properties developed for occupancy by elderly households that need meals or other services to assist them in performing activities of daily living. Congregate projects consist of private apartments and central dining facilities in which a number of allowable preestablished services are provided to tenants. These projects are <u>not</u> designed to be nursing homes and, therefore, are not allowed to provide medical or healthcare-related services. When leasing units, priority may be given to eligible elderly households who qualify for the services provided by the facility.

D. Group Homes

Group home projects are rental properties developed for occupancy by individuals who qualify as elderly households and are in need of special services. For example, a group home might serve developmentally disabled or mentally impaired tenants. Applicants for occupancy must demonstrate a need for the services offered by the group home. Occupancy may be limited to a specific group of eligible households if this condition is outlined in the management plan for the project.

E. Cooperatives

Section 515 loans may be used to finance cooperative housing projects operated by nonprofit consumer cooperatives for the benefit of low- and moderate-income members.

F. Mixed Projects

Mixed projects are properties developed with a portion of the units designated as family units and the remainder of the units established as elderly units. At the time the project is developed, the borrower must designate the units that will be operated as family units and those to be operated as elderly units.

2.4 TYPES OF LOANS

The rules governing the origination of Section 515 loans differ slightly, depending upon the type of loan being made. The types of loans available under Section 515 include:

- Initial loans;
- Subsequent loans;
- Assumed loans; and
- Equity incentive loans.

This section describes the four types of loans and how they differ. The first two types are discussed in further detail in the Loan Origination Handbook. The requirements and procedures for assumed loans and equity loans are covered in Chapter 13.

A. Initial Loans

Initial loans are made to projects with no existing Agency loan. Most initial loans are made to build new properties. However, the Agency makes initial loans for rehabilitation of existing properties when it is in the Agency's best interest.

The interest rate for these loans is set at the note rate established by the Agency in RD Instruction 440.1, Interest Rates, Amortization, Guarantee Fee, Annual Charge, and Fixed Period. The Agency then provides interest credit assistance, which reduces the effective interest rate to one percent.[1] Interest credit is only provided for units occupied by eligible tenants paying at least 30 percent of their income for rent. The administration of interest credit is covered in Chapter 7 of the Asset Management Handbook.

The Agency establishes the term of these loans to correspond to the expected useful life of the property. The maximum term is 50 years. Generally, initial loans are made for

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[1] Some existing projects do not receive interest credit, while others receive interest credit that reduces the interest rate to three percent. However, all initial loans made by the Agency following the publication of this handbook will receive interest credit as described here.

a term of 50 years, with the exception of properties where the expected useful life is a shorter period (e.g., manufactured housing).

B. Subsequent Loans

Subsequent loans can be issued during the term of an Agency loan to help an existing borrower pay for repairs or improvements to the property or in conjunction with the transfer of a property where the purchaser is assuming the initial Agency loan. The key differences between processing requirements for subsequent and initial Section 515 loans are discussed in Chapter 11 of the Loan Origination Handbook. Guidance regarding the requirements and procedures for processing project transfers is covered in Chapter 7.

C. Assumed Loans

Section 515 loans may be assumed in conjunction with a transfer of ownership of the property. The terms and conditions of the assumption depend upon the needs of the project at the time of the transfer. The procedures for processing transfers and assumptions are presented in Chapter 5.

1. New Rates and Terms Assumption

Most assumptions of Section 515 loans are new rates and terms assumptions – that is, the purchaser assumes responsibility for all or a portion of the remaining debt. To conserve the Agency's budgetary resources, the transaction does not involve paying off the old loan and issuing a new initial loan. Instead, the purchaser assumes the outstanding debt, which is reamortized at new rates and terms. New rates and terms assumptions are used when the purchaser will experience financial difficulties under the terms of the initial loan or when a change in rates and terms is necessary to facilitate the transfer. Purchasers may apply for subsequent loans to make up the difference between the amount of debt assumed and the purchase price or to address physical needs at the project.

2. Same Rates and Terms Assumption

Transfers may also take place in conjunction with a same rates and terms assumption. Under this type of assumption, the existing note terms, including the interest rate and the remaining repayment period, do not change.

D. Equity Incentive Loans

The Agency may offer equity loans to borrowers who are eligible and have applied to prepay their loan. If the Agency offers an equity loan and the borrower accepts the offer, the borrower agrees to extend the low-income use of the property.

2.5 AGENCY RENTAL ASSISTANCE

Projects located in areas where prospective tenants are likely to be rent overburdened or existing tenants are already overburdened can apply for Agency rental assistance. This rental subsidy assists tenants by allowing them to pay 30 percent of adjusted income for rent, thereby reducing the financial burden on the household. The Agency pays the difference between the tenant contribution and the approved basic rent for the unit through the rental assistance contract with the borrower.

2.6 PREFERENCE FOR PROJECTS THAT LEVERAGE OTHER FUNDS

To maximize the number of units produced with Section 515 loan funds, the Agency gives preference to project applications for new loans that leverage other funds, thereby reducing the amount of Section 515 loan funds needed to develop the project. The greater the leveraging proposed in a project application, the greater the preference for funding. Examples of funds that count as leveraged funds include borrower resources beyond the minimum required amount, equity generated by the sale of Low-Income Housing Tax Credits, a second loan from another lender, or a grant from a state or local public agency or other source.

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SECTION 2: SECTION 514/516 PROGRAM

2.7 TYPES OF PROJECTS

The Section 514/516 Farm Labor Housing program provides funds to support the development of housing for farm labor. Section 514/516 assistance differs from the Section 515 loans in the following ways:

- The objective of the program is to provide housing for farmworkers;
- There are no rural restrictions; and
- Agency grants are available to support the development of these projects.

Section 514/516 assistance may be used for Off-Farm Labor Housing and Section 514 assistance only for On-Farm Labor Housing. Only Section 514 assistance may be used in conjunction with federal Low-Income Housing Tax Credits.

A. Off-Farm Labor Housing

Applicants for Off-Farm Labor Housing loans or grants must be nonprofit organizations that will provide the housing for very low-, low-, and moderate-income farmworkers who receive a substantial portion of their income from farm employment. Priority for occupancy is based on income and the percentage of earnings from farm labor. These projects may be located outside rural areas and may be developed as year-round or seasonal housing.

B. On-Farm Labor Housing

On-Farm Labor Housing is designed to provide adequate housing for farmworkers involved in a specific farming operation. Individual farmers, family farm corporations or partnerships, or associations of farmers may develop these projects but must operate them on a nonprofit basis. To qualify for occupancy, an individual or a household must simply be employed as part of the farming operation. There is no income restriction governing occupancy. However, immediate family members of individuals with an ownership interest in the farm are prohibited from living at the property.

2.8 LOANS AND GRANTS

The Agency offers loans and grants to finance Farm Labor Housing Projects. Chapter 13 of the Loan Origination Handbook provides more information about the origination process for these loans and grants.

A. Farm Labor Housing Loans

Section 514 loans for Farm Labor Housing projects are very similar to Section 515 loans. However, they differ in two important ways:

- These loans carry a one percent effective interest rate (i.e., there is no interest credit); and

- The maximum term for these loans is 33 years.

These loans can be used to finance either Off-Farm or On-Farm projects.

At one time, loans for both types of projects were processed on a first-come, first-served basis. Today, lending decisions regarding loans for Off-Farm Labor Housing projects are handled through a competitive NOFA process, while loans for On-Farm Projects are still processed in the order that they are received.

B. Farm Labor Housing Grants

Section 516 grants may only be used to support the development of Off-Farm Labor Housing projects. These grants may be used for the same purposes as Section 514 loans when there is reasonable doubt that the housing could be provided without the grant.

2.9 RENTAL ASSISTANCE

Applicants for Section 514/516 assistance for Off-Farm Labor Housing projects may also apply for Agency rental assistance. The requirements for obtaining rental assistance are the same as for Section 515 projects. On-Farm Labor Housing projects are not eligible for Agency rental assistance.

2.10 PREFERENCE FOR PROJECTS THAT LEVERAGE OTHER FUNDS

Like the Section 515 program, the Agency gives preference to applications for Off-Farm projects that leverage other sources of funds. There is no leveraging preference for On-Farm applications.

SECTION 3: OVERVIEW OF MULTI-FAMILY PROJECT SERVICING

2.11 KEY PROJECT SERVICING ACTIVITIES AND THIS HANDBOOK

The goal of the Agency's servicing efforts is to ensure that projects fulfill the terms of their loan or grant agreement and provide fair, consistent processing of servicing requests. Project servicing involves the following activities:

- Account servicing;
- Reviewing requested changes in the ownership entity;
- Evaluating and processing project transfer requests;
- Addressing security restructuring requests;
- Identifying and recapturing unauthorized assistance;
- Addressing borrower defaults and evaluating work-out agreements;
- Processing loan restructuring requests;
- Foreclosing and liquidating projects in default;
- Managing and disposing of inventory property; and
- Evaluating and processing prepayment requests.

This handbook presents the program requirements in each of these areas and describes the Agency's procedures for fulfilling its responsibilities.

In addressing each topic area, the handbook first presents the requirements and procedures for Section 515 rental projects and then discusses differences or additional requirements for other types of projects (e.g., congregate housing, Farm Labor housing, cooperatives).

2.12 PROJECT SERVICING PROCEDURES FOR MULTI-FAMILY HOUSING PROJECTS

Chapters 3 through 13 describe the program requirements for Section 515 projects.

A. Automated Systems (Chapter 3)

This chapter describes the Agency's four primary automated information management systems – Industry Interface, the Automated Multi-Family Housing Accounting System (AMAS), the Multi-Family Integrated System (MFIS), and the Prepayment Tracking and Concurrence (Pre-Trac)– including their purpose and capabilities, staff responsibilities, and training and certification requirements.

B. Account Servicing (Chapter 4)

This chapter covers routine transactions involving the borrower's repayment of the loan obligation, including payment processing, tracking project accounts, and final payments.

C. Ownership and Organizational Changes (Chapter 5)

Changes in the borrower entity require Agency notification and, in specific cases, Agency consent. This chapter outlines the requirements regarding borrower requests involving these changes and the procedures for addressing these changes.

D. Determination of Project Suitability (Chapter 6)

When there are loan repayment or compliance problems with a project and the Agency is considering special servicing actions, or prior to making a subsequent loan, the Loan Servicer must determine that the property remains suitable as a program property. This chapter is designed to assist the Agency, and the Loan Servicer in particular, to make an analysis of a project's suitability and to determine that it meets the principles and objectives of the Agency.

E. Transfers of Project Ownership (Chapter 7)

When borrowers seek to transfer their projects to a new ownership entity, the transfer must be performed in a manner consistent with the program requirements to ensure that the project continues to address program objectives and the Agency's security interests are protected. This chapter explains the requirements and procedures for completing project transfers.

F. Security Restructuring Requests (Chapter 8)

As project conditions change over time, it may become necessary to request a restructuring of the security for the loan. The Agency's requirements and procedures for filing these requests are covered in this chapter.

G. Unauthorized Assistance (Chapter 9)

If borrowers or tenants receive assistance for which they are ineligible, the Agency will take steps to recapture this unauthorized assistance. This chapter discusses the Agency's requirements and procedures for identifying and collecting unauthorized assistance.

H. Compliance Violations, Defaults, and Workout Agreements (Chapter 10)

The Agency will monitor borrower performance using the procedures presented in Chapter 9 of the Asset Management Handbook. Borrowers who fail to comply with program requirements will be notified of compliance violations and the need to correct the deficiencies. This chapter describes the servicing actions in response to compliance violations and the additional servicing actions taken by the Agency in the event violations go uncorrected and the borrower falls into default.

I. Loan Restructuring (Chapter 11)

When borrowers encounter changes or difficulties beyond their control that affect the financial viability of the project, they may ask for the Agency to approve restructuring of its financing as one course of financial relief for the project. Also, borrowers with more than one Agency loan may be able to request restructuring changes that simplify administration of the loans. This chapter presents the requirements and procedures for Agency review and approval of these requests.

J. Account Foreclosure and Liquidation (Chapter 12)

When borrowers go into default under the terms of their loan agreement, the Agency will review the case and determine whether to accelerate the loan and initiate foreclosure proceedings. The procedures for making this determination are covered in this chapter.

K. Other Special Cases (Chapter 13)

There are a number of special circumstances that borrowers may face during the life of a loan that require special servicing actions by the Agency. The special cases covered in this chapter include bankruptcy, death of a borrower, abandonment, and valueless liens.

L. Management and Disposal of REO Property (Chapter 14)

Real estate owned property consists of projects where the Agency has assumed ownership as a result of foreclosure. This chapter presents Agency procedures for managing and disposing of these projects in a manner that is in the best interest of the government and of any tenants of the projects.

M. Project Preservation (Chapter 15)

Borrowers receiving loans prior to December 15, 1989 may prepay their loan obligations under the terms of their loan agreements. In an effort to preserve such units as affordable housing, the statute for the program directs the Agency to make reasonable efforts to extend the low-income use of the project. This chapter presents the requirements and procedures for borrower requests and Agency evaluation of such requests.